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C O N F I D E N T I A L SECTION 01 OF 02 OTTAWA 001501

SIPDIS

E.O. 12958: DECL: 12/01/2018

TAGS: PREL MOPS NATO IR CA

SUBJECT: CANADA SEEKING TO KEEP EXCHANGE OFFICERS IN IRAQ

REF: A. STATE 126109

1B. BAGHDAD 3630

1C. LUNDBERG-BREESE EMAIL OF 11/28/2008

Classified By: PolMinCouns Scott Bellard, reasons 1.4 (b) and (d).

11. (SBU) This is an action request -- see para 7.

12. (C) Summary: Canada is seeking ways to keep its 13 military exchange officers in Iraq embedded in American and British military units after December 31, 2008, when the UN mandate for Iraq expires. In a December 1 meeting, Canadian interlocutors sought confirmation that their officers would not be covered under the new U.S.-Iraqi Status of Forces Agreement (SOFA). Canada is mulling various options to keep their personnel in Iraq, including a non-legally binding exchange of letters with the Government of Iraq, or providing diplomatic accreditation for the exchange officers through the Canadian embassy in Amman. Before approaching the Iraqis about an exchange of letters, however, Canada would like to know whether the U.S. military would accept this stopgap measure to allow Canadian exchange officers to remain with their American units. Canadian interlocutors stressed that Canada desires strongly to keep their exchange officers in Iraq. End summary.

13. (C) Department of Foreign Affairs and International Trade (DFAIT) legal officer Suneeta Millington invited poloff and naval attach on December 1 to discuss how Canada can keep its nine Canadian exchange officers with their American units once the UN mandate expires on December 31, 2008. (Note: Canada also has four officers in Iraq with British units. end note) Millington sought to confirm that the Canadian exchange officers attached to U.S. forces in Iraq would not enjoy the same privileges and immunities under the new SOFA as their American counterparts. Based on guidance provided by OSD through WHA/CAN (ref C), poloff and naval attach confirmed that article 30 of the SOFA covers only American personnel. Millington expressed thanks for the confirmation and suggested that DFAIT and Department of National Defence (DND) have been mulling several options to allow the Canadian troops to stay in Iraq. DFAIT and DND interlocutors stressed that Canada desires strongly that their exchange officers remain in Iraq. However, negotiating its own bilateral treaty with Iraq is a "non-starter for Canada," according to Millington. She noted that while Iraq has made clear that it values Canadian contributions in Iraq, Baghdad has &capacity issues" that preclude negotiating a separate bilateral agreement in time for the deadline.

14. (C) DFAIT is leaning toward proposing a non-legally binding exchange of letters with Iraq that recognizes the provisions of the U.S. SOFA and proposes that the same terms apply to Canadian personnel serving with U.S. units,

according to Millington. She cautioned that she had "no idea" whether Iraq would be amenable to Canada's proposal. Before approaching the Iraqis, Canada wanted to see whether U.S. military commanders would accept the stopgap measure of an exchange of letters to allow Canadian exchange personnel to stay with their U.S. units.

15. (C) Naval attach mentioned that he had heard that Canada was contemplating giving diplomatic accreditation to the exchange officers and queried the Canadians about this possibility. Millington responded that this option was &unlikely.⁸ DFAIT has policy objections, she said, to granting diplomatic status to those who might "conceivably use deadly force, even if solely in self-defense." DFAIT Iraq Desk Officer David Leach inquired about U.S. experience in accrediting military personnel with administrative and technical staff credentials through an embassy. He said that Canada was particularly interested to know how the U.S. approaches host governments to gain A and T status for marine security guards.

16. (C) Millington expressed concern about even exchanging letters in less than a month, given the many tasks facing the Iraqi government and the low-priority they would likely accord the Canadian request. DND peacekeeping directorate representative Lt. Col. David MacIver concurred, adding that the approaching holiday season in Ottawa will make the legal drafting and clearance process in Ottawa "challenging" as well. He noted that the Strategic Staff is preparing to send next week a &warning order⁸ for all exchange officers in Iraq, notifying them to be prepared to depart Iraq no later

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than December 31. DND Judge Advocate General representative Lt. Cmdr Ken Osbourne commented that the exclusion of Canadian officers from SOFA protection was already creating moral and welfare issues, including access to mail service and the ability to move off compound.

17. (C) Action request: Please provide guidance on whether a non-binding exchange of letters between Canada and the Iraqi government would be acceptable to U.S. military commanders as a means to allow Canadian exchange officers to remain with their U.S. units in Iraq after December 31. Post also requests State's assistance in gathering information on the legal and administrative process for securing A and T status for marine security guards.

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